

STATE OF ILLINOIS
BEFORE THE ILLINOIS COMMERCE COMMISSION

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Gridley Telephone Company)	Docket Nos.	04-0180
Flat Rock Telephone Co-Op, Inc.)		04-0181
Cambridge Telephone Company	)		04-0182
Henry County Telephone Company	)		04-0183
LaHarpe Telephone Company	)		04-0184
Hamilton County Telephone Co-Op	)		04-0185
Moultrie Independent Telephone Company	)		04-0189
Glasford Telephone Company	)		04-0193
Viola Home Telephone Company	)		04-0194
New Windsor Telephone Company	)		04-0195
Montrose Mutual Telephone Company	)		04-0196
Woodhull Community Telephone Company	)		04-0197
Leaf River Telephone Company	)		04-0198
Oneida Network Services, Inc.	)		04-0199
Oneida Telephone Exchange	)		04-0200
Reynolds Telephone Company	)		04-0206
Adams Telephone Co-Operative	)		04-0228
Shawnee Telephone Company	)		04-0236
The El Paso Telephone Company	)		04-0238
Odin Telephone Exchange, Inc.	)		04-0239
Yates City Telephone Company	)		04-0240
Grandview Mutual Telephone Company	)		04-0282
)		
Petition for Suspension or Modification of)		
Section 251(b)(2) requirements of the Federal)		
Telecommunications Act pursuant to Section)		
251(f)(2) of said Act; for entry of Interim Order;)		
and for other necessary relief.)		

REPLY TO NOTICE AND REQUEST TO DISREGARD

NOW COMES Verizon Wireless, by and through its Counsel, Clark Hill PLC, and replies to the May 6, 2004 Notice filed on behalf of Gridley Telephone Company, Flat Rock Telephone Co-Op, Inc., Cambridge Telephone Company, Henry County Telephone Company, LaHarpe Telephone Company, Hamilton County Telephone Co-Op, Moultrie Independent Telephone Company, Reynolds Telephone Company, Adams Telephone Co-Operative, Shawnee

Telephone Company, The El Paso Telephone Company, Odin Telephone Exchange, Inc., Yates City Telephone Company, Grandview Mutual Telephone Company, and to the May 6, 2004 Notice filed on behalf of Glasford Telephone Company, Viola Home Telephone Company, New Windsor Telephone Company, Montrose Mutual Telephone Company, Woodhull Community Telephone Company, Leaf River Telephone Company, Oneida Network Services, Inc., Oneida Telephone Exchange (collectively the “Petitioners”), in the above-captioned proceedings.¹

On May 5, 2004, Verizon Wireless filed its Brief on Exception to Proposed Interim Order (“Verizon Wireless’ Exceptions”), in the above-captioned proceedings, pursuant to the schedule established by the Administrative Law Judge (“ALJ”). Despite the fact that the ALJ had given Verizon Wireless less than 42 hours (of which only about 10 were normal business hours) in which to respond to his Proposed Interim Order,² **Verizon Wireless timely filed its Brief on Exceptions to Proposed Interim Order, which fully complies with the specific letter and spirit of the Commission’s rules.** The petitioners, in an attempt to divert this Commission’s attention away from the real issues in this proceeding, the harm to Illinois consumers that will result from any suspension of those consumers’ rights to local number portability, filed a Notice alleging that Verizon Wireless’ Exceptions were procedurally defective and should be automatically stricken. The Petitioners’ baseless allegation, and their failure to substantively reply to Verizon Wireless’ Exceptions, demonstrates their desperation as they reach the

¹ While two Notices were filed, one in Docket Nos. 04-0180, 04-0181, 04-0182, 04-0183, 04-0184, 04-0185, 04-0189, 04-0206, 04-0228, 04-0236, 04-0238, 04-0239, 04-0240, and 04-0282, and a separate Notice in Docket Nos. 04-0193, 04-0194, 04-0195, 04-0196, 04-0197, 04-0198, 04-0199, and 04-0200, the Notices were essentially identical in substance and form.

² The Rules of Practice of the Illinois Commerce Commission, 83 Ill. Admin. Code, Section 200.830 normally give 14 *days* after service of a proposed order in which to prepare exceptions. While the Rules give the Hearing Examiner (ALJ) discretion to adjust such time, Verizon Wireless contends that the amount of time set by the ALJ was arbitrarily and capriciously set at prejudiciously short amount of time.

May 24, 2004 deadline by which the Federal Communications Commission has long ago ordered them to provide wireline-to-wireless local number portability.

The Rules of Practice of the Illinois Commerce Commission, 83 Ill. Adm. Code 200.830(b) provides in relevant part, as follows:

Exceptions and replies thereto with respect to statements, findings of fact or rulings of law must be specific and must be stated and numbered separately in the brief. When exception is taken or reply thereto is made as to a statement or finding of fact, a suggested replacement statement or finding must be incorporated. . . .

Verizon Wireless' Exceptions specifically replies to the ALJ's conclusion that,

the petitioning ILECs should be granted, pursuant to Section 251(f)(2) of the TA96, a temporary suspension of any wireline-to-wireless LNP obligations applicable to them under Section 251(b)(2) of the TA96 until the Commission enters final orders in these matters.³

Verizon Wireless, specifically objected to the Proposed Interim Order on the following grounds and separately numbered:

1. Adoption of the Proposed Interim Order would be prejudicial to Verizon Wireless and Consumers in Illinois.⁴
2. The Proposed Interim Order improperly relies on previously unchallenged interim orders issued in earlier proceedings.⁵
3. The Proposed Interim Order fails to set a firm deadline on interim relief.⁶

³ Interim Order, p. 5.

⁴ Verizon Wireless' Exceptions, p. 2; Verizon Wireless also provided an in-depth discussion of this Exception at pp 3-5, and these very numbered headings and words are themselves replacement language.

⁵ Verizon Wireless' Exceptions, p. 2; Verizon Wireless also provided an in-depth discussion of this Exception at p. 5, and these very numbered headings and words are themselves replacement language.

⁶ Verizon Wireless' Exceptions, p 2; Verizon Wireless also provided an in-depth discussion of this Exception at pp 5-6, and these very numbered headings and words are themselves replacement language.

Verizon Wireless did not dispute any of the facts alleged in the Proposed Interim Order, because no facts were found in support of the ALJ's conclusion. The conclusion of there being no prejudice is actually contrary to federal policies and not grounded on any facts. The conclusion that the interim relief should be granted is unsupported. To date there have been no substantive hearings held in this proceeding,⁷ and no evidence has been admitted into the record, nor even formally offered. Verizon Wireless therefore could not have been expected to nor required to provide “a suggested replacement statement or finding” in support of an exception “taken or made as to a statement or finding of fact.” There are no findings of fact in the Proposed Interim Order supporting the ALJ's conclusions. Moreover, there is not even a conclusion that the legal standards required by Section 251(f)(2) of the Telecommunications Act of 1996⁸ have been met.

What Verizon Wireless took exception to was the ALJ's conclusion. A conclusion is “a judgment arrived at by reasoning; an inferential statement.”⁹ A conclusion is not “statement or finding of fact,” to which Verizon Wireless should have or could have provided replacement language as the Petitioners suggest.

To the extent that the rules could be so construed as to require Verizon Wireless to provide alternative language for the Proposed Interim Order, Verizon Wireless did just that:

[The] Illinois Commerce Commission reject[s] the Proposed Interim Order, and den[ies] the Petitioners' requests for an Interim Order suspending any requirement that the Petitioner “may have under Section 251(b)(2) of the Federal Telecommunications Act of 1996 to provide wireline-to-wireless local number portability.”¹⁰

⁷ Only status hearings have been held. *See*, Proposed Interim Order, p. 2.

⁸ 47 U.S.C. § 251(f)(2).

⁹ BLACK'S LAW DICTIONARY 284 (7th ed. 1999).

¹⁰ Verizon Wireless' Exceptions, pp. 5-6.

WHEREFORE, Verizon Wireless respectfully requests and prays that the Illinois Commerce Commission 1) disregard the Petitioners' May 6, 2004 Notices; 2) accept and consider Verizon Wireless' Brief on Exception to Proposed Interim Order; and, 3) adopt an Interim Order that provides as follows:

The Illinois Commerce Commission reject[s] the Proposed Interim Order, and denies the Petitioners' requests for an Interim Order suspending any requirement that the Petitioner "may have under Section 251(b)(2) of the Federal Telecommunications Act of 1996 to provide wireline-to-wireless local number portability.

Respectfully submitted,

CLARK HILL PLC

By: _____

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Date: May 6, 2004

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ILLINOIS COMMERCE COMMISSION

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**Petitions For Suspension Or Modification of
Section 251(b)(2) requirements of the
Federal Telecommunications Act pursuant
to Section 251(f)(2) of said Act; for entry of
Interim Order; and for other necessary relief.**

NOTICE OF FILING

To: Service List Attached

You are hereby notified that I have, this 6th day of May, 2004 filed with the Chief Clerk of the Illinois Commerce Commission a Reply to Notice and Request to Disregard on behalf of Verizon Wireless, in the above-captioned proceeding, via the electronic e-docket system on May 6, 2004.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Reply to Notice and Request to Disregard on behalf of Verizon Wireless, in the above-captioned proceeding, were served upon the parties on the attached service list via United States Postal Service First-Class Mail on May 6, 2004.

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Docket No. 04-0180

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